

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DAVID JOHN THORKELSON, as
Personal Representative of the
Estate of Debi Lyn Thorkelson,

Plaintiff,

v.

Case No.: 2:19-cv-263-SPC-MRM

CARMINE MARCENO and
ROBERT CASALE,

Defendants.

_____ /

OPINION AND ORDER¹

Before the Court is United States Magistrate Judge Mac R. McCoy's Report and Recommendation. ([Doc. 90](#)). Judge McCoy recommends granting in part and denying in part Defendants' Second Renewed Motion to Tax Costs ([Doc. 86](#)). No objections have been filed, and the time to do so has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge "may accept, reject, or modify, in whole or in part," the magistrate judge's R&R. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). In the absence of specific objections, there is no requirement that a district judge review the

¹ Disclaimer: Documents hyperlinked to CM/ECF are subject to PACER fees. By using hyperlinks, the Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide, nor does it have any agreements with them. The Court is also not responsible for a hyperlink's availability and functionality, and a failed hyperlink does not affect this Order.

R&R *de novo*. See [Garvey v. Vaughn](#), 993 F.2d 776, 779 n.9 (11th Cir. 1993). Instead, when parties don't object, a district court need only correct plain error as demanded by the interests of justice. See, e.g., [Symonette v. V.A. Leasing Corp.](#), 648 F. App'x 787, 790 (11th Cir. 2016); [Thomas v. Arn](#), 474 U.S. 140, 150-52 (1985). Plain error exists if (1) "an error occurred"; (2) "the error was plain"; (3) "it affected substantial rights"; and (4) "not correcting the error would seriously affect the fairness of the judicial proceedings." [Farley v. Nationwide Mut. Ins.](#), 197 F.3d 1322, 1329 (11th Cir. 1999).

After examining the file independently and upon considering Judge McCoy's findings and recommendations, the Court accepts and adopts the Report and Recommendation to the extent it recommends awarding Defendants \$2961.20 in costs.

Accordingly, it is now


ORDERED:

Defendants' Second Renewed Motion to Tax Costs ([Doc. 86](#)) is **GRANTED IN PART AND DENIED IN PART** as follows:

- (1) The Motion is **granted** to the extent Defendants are awarded \$2961.20 for court reporter fees and deposition transcripts;
- (2) The Clerk of Court is **directed** to enter an amended cost judgment for Defendants Carmine Marceno and Robert Casale in the amount of \$3686.20, minus any costs already satisfied; and

(3) The Motion is **denied** to the extent it seeks any greater or different relief.

DONE and **ORDERED** in Fort Myers, Florida on December 16, 2021.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record